

1 Counsel had received authorization to represent defendant Wilson in this matter on August 14,
2 2012. County Counsel's office, therefore, requested an extension of time to file an answer.
3 Plaintiffs stipulated to an extension of time and the Court entered an order granting the extension.
4 The defendant then filed a motion to dismiss on September 19, 2012. Following the filing of the
5 motion to dismiss the parties entered into substantive settlement negotiations that resulted in the
6 parties filing a stipulation with the Court on October 10, 2012, staying proceedings in the case for
7 60 days to allow the parties to continue to pursue settlement of the case.

8 On December 28, 2012, in advance of a case management conference scheduled for January
9 3, 2013, parties filed a joint case management statement requesting the Court to reschedule the case
10 management conference to allow parties an additional 60 days for continued settlement negotiation.

11 On February 28, 2012, in advance of a case management conference scheduled for March 7, 2013,
12 the parties filed a joint case management statement requesting the Court to reschedule the case
13 management conference to allow parties an additional 60 days for continued settlement negotiation.

14 By Order of the Court, the Court reset the Case Management Conference from March 7, 2013 to
15 May 30, 2013, and ordered the parties file a Joint Case Management Statement by May 23, 2013.

16 On May 14, 2013, in advance of a case management conference scheduled for May 30, 2013, the
17 parties filed a stipulation for continuance of case management conference to pursue settlement
18 requesting the Court to reschedule the case management conference to allow parties an additional
19 60 days for continued settlement negotiation. By Order of the Court, the Court reset the Case
20 Management Conference from May 30, 2013 to July 25, 2013, and ordered the parties file a Joint
21 Case Management Statement by May 18, 2013.

22 The parties are still engaging in substantive settlement negotiations. As of July 18, 2013,
23 plaintiffs have provided defendant with a detailed proposed offer of settlement. Producing the
24 proposed settlement offer involved drafting not only a lengthy memorandum of understanding
25 between the parties, but also a number of other documents and tribal resolutions to fulfill
26 conditions precedent to the settlement offer. The parties anticipate that they will need an additional
27 30 days to review and obtain the necessary approvals of the final settlement offer and request that
28 the Court set a new date for the case management conference 30 days from today's date.

1 1. **Jurisdiction and Service:** The Court has jurisdiction over Plaintiffs' claims based
2 upon 28 U.S.C. § 1331, in that the Plaintiffs' claims arise under the Constitution and laws of the
3 United States; and (b) 28 U.S.C. § 1362, in that this civil action is brought by a federally
4 recognized Indian tribe whose claims arise under the Constitution and the laws of the United States.
5 There are no issues with regard to venue and, no defendants remain to be served, pending the filing
6 of a second amended complaint.

7 2. **Facts:** Plaintiffs Gary Dowd and Frank Dowd ("Individual Plaintiffs"), members
8 of the plaintiff Resighini Rancheria ("Tribe"), were cited for California Fish and Game Code
9 violations, specifically, fishing on the Klamath River without a Yurok Tribal ID. Plaintiffs allege
10 both citations were issued by law enforcement officers deputized by the Sheriff to exercise state
11 peace officer powers and to enforce California law. In each instance, the Individual Plaintiffs were
12 fishing within the boundaries of the old Klamath River Reservation/Extension. The Del Norte
13 County District Attorney later dismissed all charges against both Individual Plaintiffs. Plaintiffs
14 maintain that the Individual Plaintiffs were fishing pursuant to the federally reserved fishing rights
15 of the Resighini Rancheria, and the arrests constitute an interference with those rights. Plaintiffs
16 contend that the law enforcement officers carrying out the arrests were exercising peace officer
17 powers pursuant to deputation by defendant Wilson. Plaintiffs bring this action to prevent Wilson
18 and anyone acting pursuant to his authority from arresting Resighini Tribal members for exercising
19 their federally reserved fishing rights.

20 3. **Legal Issues:** The main legal issues in this case are as follows. (1) Whether the
21 Sheriff has jurisdiction to enforce the civil regulatory provisions of the State's Fish and Game Code
22 against the members of the Tribe in the Indian Country of the old Klamath River Indian
23 Reservation/Extension pursuant to 28 U.S.C. § 1360, and 18 U.S.C. § 1162 ("P.L. 280"); (2)
24 Whether the Sheriff has civil regulatory authority over the Tribe's regulation of fishing by its
25 members within the Indian Country of the old Klamath River Indian Reservation/Extension under
26 P.L. 280; and (3) Whether the Sheriff has deprived the Individual Plaintiffs and the members of
27 the Tribe of their federally reserved right to fish in the Klamath River at the Tribe's usual and
28 customary fishing places within the old Klamath River Reservation/ Extension, free of State

1 regulation and control, in violation of 42 U.S.C. § 1983 and the 14th Amendment to the United
2 States Constitution.

3 4. **Motions:** Defendant has filed a motion to dismiss. The hearing date for the motion
4 has been vacated pursuant to the order of this Court to allow the parties to pursue settlement. No
5 other motions are pending.

6 5. **Amendment of Pleadings:** Neither party intends to amend pleadings at this point.

7 6. **Evidence Preservation:** Neither party has any concerns about evidence
8 preservation.

9 7. **Disclosures:** No Rule 26 disclosures have been made in response to the Amended
10 Complaint because the parties are pursuing settlement of the case.

11 8. **Discovery:** No discovery has been carried out in this case. The parties have not yet
12 engaged in discovery or developed a discovery plan pursuant to Rule 26(f) because the parties have
13 been putting all of their efforts into settling the case.

14 9. **Class Action:** This is not a class action.

15 10. **Related Cases:** There are no related cases.

16 11. **Relief:** Plaintiff seeks the following relief. (1) A declaration that defendant Wilson
17 and the peace officers deputized by the Del Norte County Sheriff's Department ("Department") and
18 exercising the State of California peace officer powers delegated to them by defendant Wilson have
19 no jurisdiction to enforce the provisions of the California Fish and Game Code against members
20 of the Tribe within the boundaries of the old Klamath River Reservation/Extension; (2) A
21 declaration that, under P.L. 280, defendant Wilson and officers deputized by the Department,
22 exercising the State of California peace officer powers delegated to them by defendant Wilson, lack
23 civil regulatory authority over the Tribe's regulation of fishing by its members on the Klamath
24 River within the old Klamath River Reservation/Extension; (3) A declaration that defendant
25 Wilson, under color of State law (the provisions of the California Fish and Game Code) have
26 deprived plaintiffs Frank Dowd and Gary Dowd and the members of the Tribe of the right to fish
27 in the Klamath River within the old Klamath River Reservation/Extension free of state regulation
28 and control, a right guaranteed to them by federal law, in violation of 42 U.S.C. § 1983; (4) An

1 order preliminarily and permanently enjoining defendant Wilson, his agents and employees, and
2 law enforcement officers exercising State of California peace officer powers delegated to them by
3 defendant Wilson from citing members of the Tribe for fishing on the Klamath River within the
4 old Klamath River Reservation/Extension not in accordance with State law; and (5) Award the
5 plaintiffs their costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.

6 12. **Settlement and ADR:** The parties have not discuss utilizing the ADR process
7 because the attorneys for the parties have been engaging in substantive settlement negotiations.

8 13. **Consent to Magistrate Judge for All Purposes:** This matter has already been
9 assigned to Judge Chen.

10 14. **Other References:** The parties have not discussed the suitability of the case for
11 reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation
12 because the parties have been pursuing settlement of the case.

13 15. **Narrowing of Issues:** The parties have not discussed the likelihood of narrowing
14 the issues in this case because they have been pursing settlement of the case. However, the parties
15 agree that the issues in this case are limited, legal issues, and that all but one fact about the
16 deputation of an officer is undisputed.

17 16. **Expedited Trial Procedure:** The parties agree that, because, the issues in this case
18 are limited, legal issues, summary proceedings will be appropriate in this case.

19 17. **Scheduling:** The parties have not discussed scheduling because they are pursuing
20 settlement, except to determine how much additional time they need to concluded settlement
21 negotiations.

22 18. **Trial:** The parties have not discussed the issues relating to trial because they are
23 pursuing settlement of the case, but the parties expect the case to be determined based on a motion
24 to dismiss or cross motions for summary judgment.

25 19. **Disclosure of Non-party Interested Entities or Persons:** The parties have not
26 discussed submission of disclosures of non-party interested entities or persons because they are
27 pursuing settlement of the case.

28 20. **Other Matters:** The parties request that the Case Management Conference in this

1 matter, presently scheduled for July 25, 2013, be rescheduled to 30 days from the date of the filing
2 of this joint case management statement to allow the parties the opportunity to conclude settlement
3 negotiations.

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5 Dated: July 22, 2013

Respectfully Submitted,

6 RAPPORT AND MARSTON

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8 By: /s/ Lester J. Marston
LESTER J. MARSTON
9 Attorneys for Plaintiffs

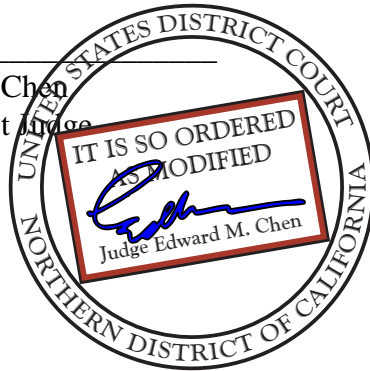
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11 Dated: July 22, 2013

DEL NORTE COUNTY COUNSEL

12
13 By: /s/ Gretchen Stuhr
GRETCHEN STUHR
14 Attorney for Defendant

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16 IT IS SO ORDERED that the CMC is reset from 7/25/13 to 9/5/13 at 9:00 a.m. An updated
17 joint CMC Statement shall be filed by 8/29/13.

18
19 Edward M. Chen
20 U.S. District Judge



CERTIFICATE OF SERVICE

I, LESTER J. MARSTON, hereby certify that a copy of the foregoing document was this date served upon all counsel of record by electronically filing the foregoing with the Clerk of the U.S. District for the Northern District of California, using its ECF system, which automatically provides electronic notification to the following:

Gretchen Maria Stuhr
Del Norte County Counsel
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Crescent City, CA 95531